

REMARKS

Applicant expresses appreciation to the Examiner for consideration of the subject patent application. This amendment is in response to the Office Action mailed February 3, 2009. Claims 1-21 were rejected. The claims have been amended to address the concerns raised by the Examiner.

Claims 1-21 were previously presented. Claims 1-21 remain in the application. Claim 10 has been canceled without prejudice. Claims 1-3, 8-9, 11-13, 15-17 and 19-21 have been amended. No claims have been added.

Claim Rejections - 35 U.S.C. § 101

Claims 1-18 and 21 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Independent claims 1, 19 and 21 were amended to more clearly clarify that the claimed invention is within the scope of 35 U.S.C. § 101 as outlined by the recent Federal Circuit decision. Specifically, regarding a charitable cause, claim 1 includes the limitation of transforming a selected location by erecting a plurality of flags at the selected location to comprise a healing field that is, at least in part, expressive of the charitable cause. The claim includes the additional limitation that the flags in the healing field are displayed as part of a public awareness campaign, with the plurality of flags being arranged as a group in a layout so as to stimulate an emotional response within individuals viewing the healing field that is associated with the charitable cause.

The Office Action recites that a § 101 process “must (1) be tied to a machine or (2) transform the underlying subject matter (such as an article or materials) to a different state or thing. Claim 1, as recited in part above, clearly transforms an empty field into a healing field by erecting a plurality of flags arranged as a group in a layout so as to stimulate an emotional response within individuals viewing the healing field that is associated with the charitable cause. Thus, the selected location is clearly transformed from, for example, a grassy knoll, to a different state containing a healing field comprising the field of flags. Without a transformation of the selected location into a different state, no emotional response can be stimulated within the individuals viewing the healing field.

Independent claims 19 and 21 have been amended to include similar limitations regarding the transformation of the selected location with a healing field comprising a field of flags arranged as a group in a layout to stimulate an emotional response. Dependent claims 2-18, being narrower in scope, are allowable for at least the reasons for which the independent claims are allowable. Therefore, Applicant respectfully submits that claims 1-18 and 21 are allowable, and urges the Examiner to withdraw the rejection.

Claim Rejections - 35 U.S.C. § 102

The Office Action asserts on page 4, based on evidence presented in Exhibits U, V, and W that the invention, as claimed, was in public use prior to the priority date of the present application (February 6, 2004). The Office Action does not specifically suggest that the evidence is a violation of 35 U.S.C. § 102(b). However, § 102(b) of 35 U.S.C. appears to be the proper section for discussion of the on-sale bar.

The subject matter of claim 10 has been amended into independent claim 1. Particularly, the limitation previously recited in claim 10 of obtaining one or more sponsors to fund the charitable cause by paying for a plurality of flags has been amended into claim 1. Claim 1 includes the additional limitation of selling at least some of the plurality of flags that are displayed in the healing field to raise additional funds for the charitable cause in need of funding. Thus, the invention recited in claim 1 includes the limitations that a sponsor initially pays for flags that will be displayed in the healing field, followed by selling the flags displayed in the field to raise additional funds for the selected charity. Thus, the flags are initially purchased by sponsors of the display, and then sold to interested parties that obtain their flags after the display is taken down.

The Applicant attests that the invention, as recited in independent claims 1, 19 and 21, was not disclosed to the public or offered for sale more than one year prior to the filing of the application. Specifically, the limitations that a sponsor initially pays for flags to be displayed in the field, followed by selling the flags that are displayed in the field to raise additional funds for the selected charity, was not disclosed to the public or offered for sale more than one year prior to the filing of the application. These limitations are not disclosed in the Exhibits U, V and W. Therefore, Applicant respectfully submits that independent claims 1, 19 and 21 are allowable in

view of the requirements of 35 U.S.C. § 102(b), and urges the Examiner to withdraw the rejection.

Claim Rejections - 35 U.S.C. § 103

Claims 1-21 (including independent claims 1, 19 and 21) were rejected under 35 U.S.C. § 103 as being unpatentable over Exhibit U in view of Harmon et al. (U.S. Pub. No. 2004/0181468), hereinafter “Harmon”.

The Exhibit U and Harmon references, when combined, do not teach or suggest all of the elements of independent claim 1, as amended. Specifically, the Exhibit U reference does not teach that a sponsor initially pays for flags to be displayed in the field, followed by selling the flags displayed in the field to raise additional funds for the selected charity, and the Harmon reference does not overcome that deficiency.

The Exhibit U reference discloses a planned 30 acre national park and museum dedicated to the honor of the U.S. flag. (See page 1). The reference discloses plans for a “Field of Honor” containing over one-hundred granite memorial markers, as well as a “Flags of Freedom Monument” containing state and colonial flags located around 5 pools forming the shape of a star. However, Exhibit U does not teach or suggest a sponsor that initially pays for flags to be displayed in a field, followed by selling the flags displayed in the field to raise additional funds. Indeed, there is no discussion in Exhibit U about selling flags or other objects that were previously purchased through donations from sponsors. Any income raised for charitable causes disclosed in Exhibit U is limited to donations made for permanent displays at the proposed field of honor.

In contrast to the teachings of Exhibit U, claim 1 of the present application recites, in part, the operation of obtaining one or more sponsors to fund the charitable cause by paying for a plurality of flags. At least some of the plurality of flags that are displayed in the healing field are sold to raise additional funds for the charitable cause in need of funding. This provides additional fund raising ability for a charity than the traditional method disclosed in Exhibit U. In addition, by selling the flags to additional donors when the display period of the healing field is completed, the public awareness of the charitable cause is further spread. Flags are often used to commemorate emotional events because they promote an emotional response in people. Once the healing field has been taken down, the flags can be displayed at numerous locations by different

purchasers, enabling public attention to the charitable cause to be furthered even after the healing field is taken down. Thus, the present method can be used both to increase the profits that can be donated to the charitable cause, as well as increasing the public attention to the charitable cause. (See specification, page 5, lines 4-10).

Harmon discloses a method of funding a charity in which an item associated with a charity is sold at a first price to a first buyer, and then resold at an increased price to a second buyer, with portions of each sale donated to the charity. Harmon gives several examples of tickets to concerts or sporting events that may increase in price due to supply and demand. For example, a popular rock concert may have more demand than supply. (See Harmon, ¶ [0028]). This can create a condition in which the ticket may be purchased and resold at an increased cost. (See Harmon, ¶ [0031]). However, the method disclosed in Harmon is limited to atypical market conditions in which the demand significantly outstrips supply for a selected item. In many types of charitable causes, such as cancer, chronic illnesses, veterans associations, military tributes, and so forth, the law of supply and demand do not create a condition in which an item can continue to be sold at an increasing cost.

In contrast to the teachings of Harmon, in the present application, as recited in claim 1, an object is not sold to a first buyer, with the option to resell to a second buyer at a higher price. Rather, claim 1 provides that one or more sponsors are used to fund the charitable cause by paying for a plurality of flags prior to their display. The sponsors do not own the flags, with the ability to resell them at a higher price to make money for themselves or others. Rather, the sponsors make the field of flags display possible by paying for the flags prior to their display. In many fundraising situations, charities cannot afford to purchase hundreds, or thousands of flags for display in a healing field. The sponsor donations make it possible to display the flags at a selected location.

Claim 1 of the present invention further recites that the flags are arranged in the healing field as a group in a layout that stimulates an emotional response with individuals viewing the healing field that is associated with the charitable cause. The stimulation of the emotional response provides a value to the flags. Those viewing the healing field, that are so moved by the healing field display, can purchase a flag in the display to remind them of the charitable cause associated with the healing field. As previously discussed, this enables additional funding to be

provided to the charitable cause. In addition, it enables the charitable cause to be displayed by numerous purchasers over a wide range of locations after the healing field has been taken down. The price at which the flags in the healing field display are sold may not necessarily be for more than the funds donated by the sponsors purchasing the flags. However, the additional money raised by selling the flags in the display is beneficial to the charitable cause. Thus, the teachings in Harmon of reselling an item for a greater price cannot be attributed to the present invention, as recited in claim 1.

Moreover, the teachings of Exhibit U and the Harmon reference cannot be combined. As previously discussed, Harmon discloses a 30 acre national park and museum dedicated to honor the U.S. flag. The public can support the project by purchasing bricks for \$50.00 that will be displayed in the park. (See Exhibit U, page 4). The person's name and hometown or state will be printed on their brick. Of course, once a person's personal information is printed on a brick, the ability to resell the brick to another is minimal. The value of the brick to others will fall to near zero, since others can purchase bricks with their own personal information displayed. Thus, the fund raising method disclosed in Harmon cannot be applied to the teachings of Exhibit U.

In contrast to the cited art, the present application, as recited in claim 1, provides a method for raising funds for a charitable cause. Sponsors can pay for a plurality of flags prior to their display. A selected location can then be transformed to display the plurality of flags that are grouped in a layout that stimulates an emotional response. This emotional response can encourage those viewing the healing field to purchase a flag, thereby furthering the charitable cause both financially and through additional publicity after the display is taken down. Neither Exhibit U, nor the Harmon reference, teach or suggest the limitations cited in independent claim 1. Independent claims 19 and 21 have been similarly amended. Therefore, Applicant respectfully submits that independent claims 1, 19 and 21 are allowable, and urges the Examiner to withdraw the rejection.

Rejection of the dependent claims 2-9, 11-18 and 20 should be reconsidered and withdrawn for at least the reasons given above with respect to the independent claims. The

dependent claims, being narrower in scope, are allowable for at least the reasons for which the independent claims are allowable.

CONCLUSION

In light of the above, Applicant respectfully submits that pending claims 1-9 and 11-21 are now in condition for allowance. Therefore, Applicant requests that the rejections and objections be withdrawn, and that the claims be allowed and passed to issue. If any impediment to the allowance of these claims remains after entry of this Amendment, the Examiner is strongly encouraged to call Christopher L. Johnson at (801) 566-6633 so that such matters may be resolved as expeditiously as possible.

Fees in the amount of \$245 will be submitted electronically pursuant to 37 C.F.R. § 1.17(a)(ii), for a two month extension of time pursuant to 37 C.F.R. § 1.136. No claims were added. Therefore, no additional fee is due.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Amendment to Deposit Account No. 20-0100.

DATED this 6th day of July, 2009.

Respectfully submitted,

/christopherljohnson/

Christopher L. Johnson
Registration No. 46,809

THORPE NORTH & WESTERN, LLP
Customer No. 20,551
P.O. Box 1219
Sandy, Utah 84091-1219
Telephone: (801) 566-6633

CJ/AH/sh

212969.doc